

**New York State Department of Environmental Conservation****Division of Air Resources, Region 9**

270 Michigan Avenue, Buffalo, New York, 14203-2915

Phone: (716) 851-7130 • Fax: (716) 851-7134

Website: [www.dec.ny.gov](http://www.dec.ny.gov)Alexander B. Grannis  
Commissioner

September 10, 2009

Mr. Mark Kamholz  
Tonawanda Coke Corporation  
P.O. Box 5007  
Tonawanda, NY 14151

Dear Mr. Kamholz:

## Record of Permit Violations

I have received a copy of Mr. J.D. Crane's letter to the Honorable Charles E. Schumer dated August 21, 2009. Mr. Crane asserts that in the letter that "...not once has our facility been cited for an air permit violation..." I am compelled to refute that statement.

In fact, enforcement action has been taken by this office as a result of documented air permit violations several times since 1981. Three Orders on Consent have been entered into by Tonawanda Coke and NYSDEC. A penalty was collected in one case. The following table details the Orders on Consent.

Order #	Date Executed	Penalty	Violation
81-27	July 28, 1981		6NYCRR Part 214 permitting agreements
98-34	July 10, 1998		Pushing & Transport Opacity 6NYCRR Part 214.4(b)
R9-20060912-31	September 29, 2006	\$6000	Stack Opacity 6NYCRR Part 214.6

Thank you for your attention to this matter.

Sincerely,

Larry Sitzman, P.E.  
Regional Air Pollution Control Engineer









**003.06**  
**GOVERNMENT**  
**EXHIBIT**  
**1:10-cr-00219**

Exhibit 23





**003.09**  
**GOVERNMENT**  
**EXHIBIT**  
**1:10-cr-00219**



136.02  
GOVERNMENT  
EXHIBIT  
1:10-cr-00219



Exhibit 25

136.02-0001





Exhibit 26



136.11  
GOVERNMENT  
EXHIBIT  
1:10-cr-00219







Exhibit 28







Exhibit 29





Exhibit 30

105.40-0001



April 4, 1994

Mr. Tim Love  
Allied Signal Inc. Eng. Materials Sector  
P.O. Box 1139  
Morristown, NJ 07962-1139

Dear Tim:

Please find enclosed the job specification request for quotes for the concrete pad. As soon as we have received the quotes I will inform you of them.

Also, I have forwarded the draft of the "Operational Procedure". Your comments are appreciated.

Very Truly Yours,

Mark L. Kamholz

Defendants'  
Exhibit  
BBB

TCC-RD-001298

D\_BBB-001

U I



Mailed to  
T. Love  
4/4/94

TCC-RD-001299

D\_BBB-002



## Tonawanda Coke Corporation

BOX 5007

TONAWANDA, NEW YORK 14151-5007

(716) 876-6222

31,  
March 18, 1994

Mr. Charlie Rewers  
Lone Star Construction & Development  
1690 Walden Ave.  
Buffalo, New York 14225

Dear Charlie:

This is a request for a firm fixed price quotation for a 60' x 100' reinforced concrete pad in accordance with Bid Instructions/ Specifications and Drawings #1 & #2 dated 3/25/94.

Earlier in the year, you responded to our initial request for this pad. We have recently changed our plans significantly; therefore a new quote is requested.

In order to gain economies, construction was delayed for warmer weather to eliminate the need for heat, additives, and blanket protection. All deformed reinforcing bar has been removed from the pad proper. The wall height has been increased from 2' to 4'. A 10" x 24" wide footer has been added. A fabric membrane pavement liner has been added under the stone base. The concrete has been changed to 4,000 PSI with air entrainment. The wall pour has been specified to be continuous pour, completed in one day and the pad pour has been specified likewise. Saw cut control joints, with joint filler have been specified every 20' of length and width.

It is requested that a written quote be received by Tonawanda Coke Corporation by Monday, April 11, 1994 to meet our very tight planning schedule.

Thank you for your timely response.

Very truly yours,

  
John F. McNamara

TCC-RD-001300

D\_BBB-003



## Tonawanda Coke Corporation

BOX 5007  
TONAWANDA, NEW YORK 14151-5007  
(716) 876-6222

31,  
March 18, 1994

Mr. John Czerwinski  
7450 Bear Ridge Road  
North Tonawanda, New York 14120

Dear John:

This is a request for a firm fixed price quotation for a 60' x 100' reinforced concrete pad in accordance with Bid Instructions/ Specifications and Drawings #1 & #2 dated 3/25/94.

Earlier in the year, you responded to our initial request for this pad. We have recently changed our plans significantly; therefore a new quote is requested.

In order to gain economies, construction was delayed for warmer weather to eliminate the need for heat, additives, and blanket protection. All deformed reinforcing bar has been removed from the pad proper. The wall height has been increased from 2' to 4'. A 10" x 24" wide footer has been added. A fabric membrane pavement liner has been added under the stone base. The concrete has been changed to 4,000 PSI with air entrainment. The wall pour has been specified to be continuous pour, completed in one day and the pad pour has been specified likewise. Saw cut control joints, with joint filler have been specified every 20' of length and width.

It is requested that a written quote be received by Tonawanda Coke Corporation by Monday, April 11, 1994 to meet our very tight planning schedule.

Thank you for your timely response.

Very truly yours,

  
John F. McNamara

TCC-RD-001301

D\_BBB-004



## Tonawanda Coke Corporation

BOX 5007  
TONAWANDA, NEW YORK 14151-5007  
(716) 876-8222

31,  
March 18, 1994

Mr. Philip T. Casilio  
North Star Construction, Inc.  
8899 Main Street  
Williamsville, New York 14221

Dear Philip:

This is a request for a firm fixed price quotation for a 60' x 100' reinforced concrete pad in accordance with Bid Instructions/ Specifications and Drawings #1 & #2 dated 3/25/94.

Earlier in the year, you responded to our initial request for this pad. We have recently changed our plans significantly; therefore a new quote is requested.

In order to gain economies, construction was delayed for warmer weather to eliminate the need for heat, additives, and blanket protection. All deformed reinforcing bar has been removed from the pad proper. The wall height has been increased from 2' to 4'. A 10" x 24" wide footer has been added. A fabric membrane pavement liner has been added under the stone base. The concrete has been changed to 4,000 PSI with air entrainment. The wall pour has been specified to be continuous pour, completed in one day and the pad pour has been specified likewise. Saw cut control joints, with joint filler have been specified every 20' of length and width.

It is requested that a written quote be received by Tonawanda Coke Corporation by Monday, April 11, 1994 to meet our very tight planning schedule.

Thank you for your timely response.

Very truly yours,

  
John F. McNamara

TCC-RD-001302

D\_BBB-005



## **Tonawanda Coke Corporation**

BOX 5007

TONAWANDA, NEW YORK 14151-5007

(716) 876-6222

March 18, 1994

### CONCRETE PAD - 60' x 100' BID INSTRUCTIONS/SPECIFICATIONS

#### **Description:**

Reinforced concrete pad-60' wide x 100' long with 4' high reinforced concrete retaining walls around entire perimeter, except for one 25' wide entrance with a 5" high curb. The pad will be required to withstand the weight (approx. 20 tons) of a working 988 Caterpillar end loader. The pad must maintain its structural integrity and leak tight capabilities. Attached sketches #1 and 2 describe the concrete pad details.

#### **Requirements:**

1. Use 4,000 PSI concrete tested to a 3" slump. The contractor should guarantee this, by arranging for periodic slump testing and submitting the original paperwork to the Tonawanda Coke Corporation engineer. The concrete supplier should provide paperwork showing mix and strength values.
2. The material under the concrete must be removed down to the clay base. A 24" wide by 10" high footer is required under the total perimeter of the retaining wall. The retaining wall to be continuous pour completed within the same day, from top of footer to the 7'-4" total height. If contractor is unable to handle this volume of concrete in one day, please call this out in the bid, and quote to include: "Pause in pouring to end in full height, while restraining the wall width; resulting in a vertical joint in readiness for the following pour." If successive pours of the wall occur after a 4 hour elapsed time period, it will be required to treat the previously poured vertical joint area with an approved, commercial liquid joint bonding agent.
3. A commercial fabric membrane, pavement liner, must be installed on top of the clay base to prevent migration of the crusher run stone base into the clay base. The stone base must be of 1 foot minimum thickness composed of #3 crusher run. Additional stone will be required in low spots to insure a level stone surface. The stone must be rolled to form a tight and solid base for the concrete pad pour.

TCC-RD-001303

D\_BBB-006



PAGE 2

4. Welded wire fabric, 1/4" (.250 dia.) x 6" x 6" to be installed within the concrete pad. A 2 1/2" height must be maintained from the bottom surface of the 10" thick concrete pad. Edges of the wire fabric to be lapped over the adjoining edge at least one mesh length plus 2 1/2". A 5/8" thick x 10" high tarred felt expansion strip to be installed between the concrete pad and retaining wall.

The concrete pad to be poured in three individual strips - 20' wide x 100' long. Each strip to be continuous pour, with the entire 60' x 100' pad completed within the same day. The surface of the concrete pad to be "broom finish". NOTE: The concrete pad surface must be level — NO SLOPE!!!

Control joints to be saw-cut every 20' of concrete pad length, and every 20' of pad width. The joint to be 1/8" wide x 2 1/2" deep. The joint is to be filled with a tar based elastic joint filler compound.

5. Specify in the bid, the materials of construction intended for useage, including fabric membrane, pavement liner, perimeter expansion joint, control joint filler compound etc. Also note any drawing changes, and/or installation technique deviations requested. The Tonawanda Coke Corporation engineer will review and approve these items as appropriate.
6. General: The work effort is expected to occur during the month of May 1994; therefore no cold weather protection for the concrete will be required. Any earthen material removed by the contractor should be deposited in an adjacent pile for disposal by Tonawanda Coke Corporation. 120 volt A.C. electric power will be available at the site.

TCC-RD-001304

D\_BBB-007



DWG #1  
3/25/94 J.MG

CONCRETE PAD - 60' X 100'

4,000 PSI - 3" SLUMP, AIR ENTRAINED, REINFORCED

WELDED WIRE FABRIC

1/2" (250 DIA.) X 6" X 6" WITH 9"

OVERLAP OF SPICES - INSTALL  
WITHIN CONCRETE PAD - SEE  
BOTTOM SURFACE OF PAD - DWG #2

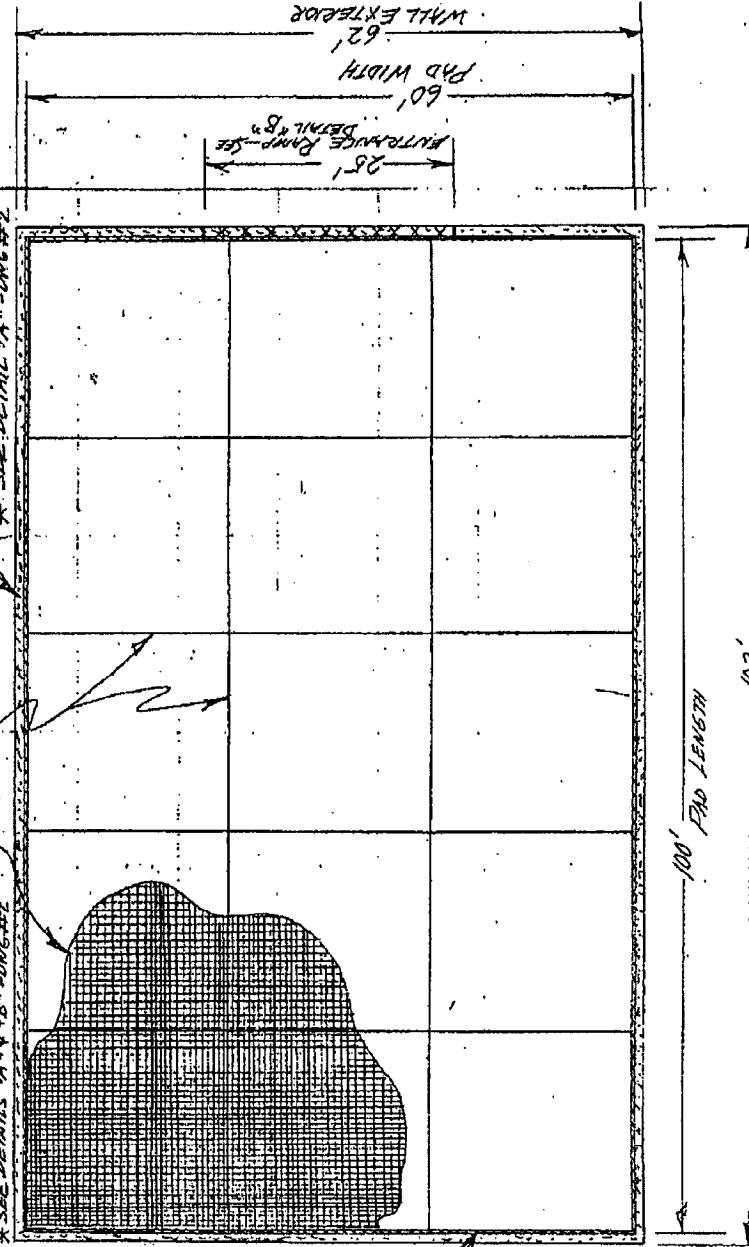
OUTLET JOINTS

1/2" WIDE X 2 1/2" DEEP SW

CUTS EVERY 24' OF PAD  
LENGTH X WIDTH

WALL

4" HIGH X 12" THICK AROUND  
TOTAL PERIMETER - EXCEPT  
FOR ELEVATOR RAMP -  
SEE DETAIL #1 - DWG #2

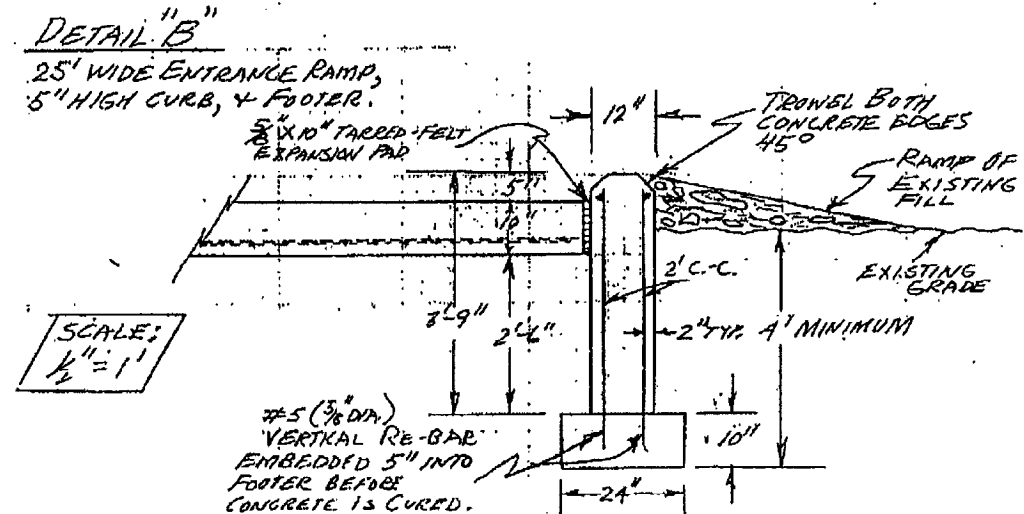
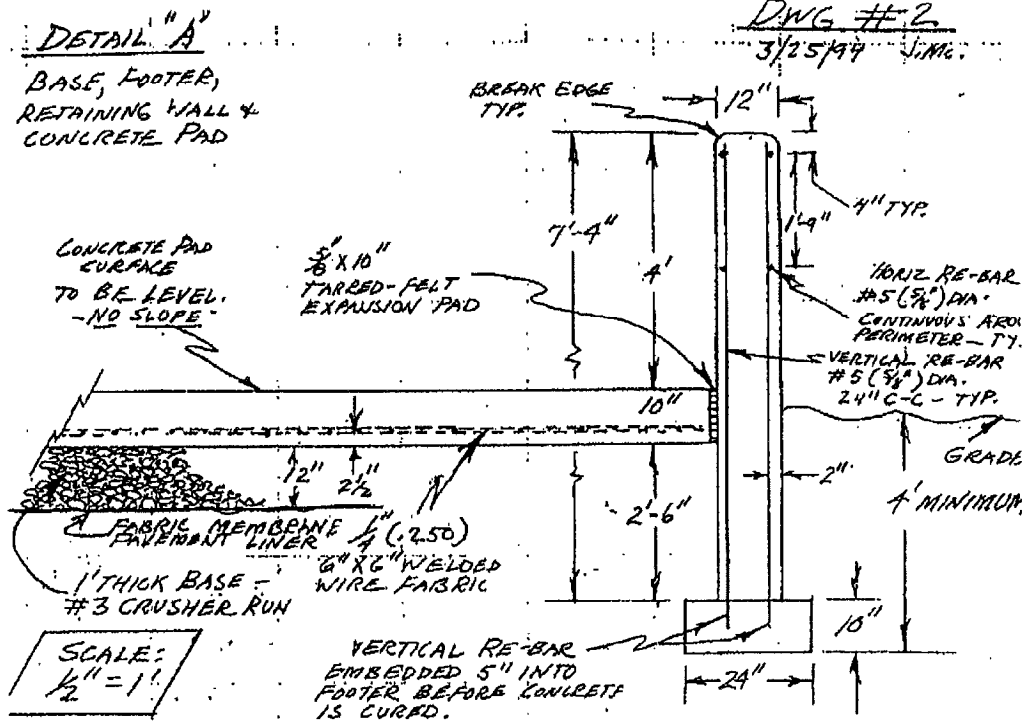


EXPANSION JOINT  
5" X 10" TARED-  
FELT EXPANSION  
MATERIAL BETWEEN  
CONCRETE PAD &  
WALL AROUND TOTAL  
PERIMETER - SEE  
DETAILS #1 & #2  
DWG. #2

NOTES:  
1. ENTIRE PAD SURFACE  
TO BE LEVEL - NO SLOPE!

SCALE:  
3/4" = 10'





**NOTE:** HORIZ. RE-BAR (#5 - [5/8" DIA.]) TO EXTEND MINIMUM OF 4' EACH SIDE OF RAMP & TIE INTO ADJACENT RETAINING WALLS.

TCC-RD-001306

D\_BBB-009



## OPERATING PROCEDURE FOR RECYCLING CENTER

**APPLICABILITY:** All TC materials received on concrete pad for recycling.

### PROCEDURE:

1. Truck weighs in
2. Truck proceeds to pad and positions entire trailer on pad.
3. Truck unloads material on designated area of pad.
4. Driver/operator inspects trailer to ensure all material is unloaded.
5. Truck leaves pad and driver/operator inspects truck tires for any material. Remove material as needed and place on pad.
6. Truck weighs out.
7. Endloader mixes material with at least a 1 to 1 ratio of coal or until material is stabilized.
8. Coal foreman calls 6-crane operator to supply a demand quantity of prepared material for consumption in the coal processing.
9. 6-crane operator buckets demand quantity to 7-belt hopper for transfer to coal handling mix bins.
10. Material is now blended as raw material for production/recovery of products.
11. From the time of material receipt to the point of consumption, this procedure should be completed in no more than a 1-week time frame. Daily consumption limits will vary depending on production rate, but 40 tons per day is reasonable.

### STORM WATER CONTROL

1. The recycle area is designed with no outlet. Containment capability is in excess of a 6-inch rainfall event. The lowest barrier height being the vehicle entrance, where as the material containment walls are 4 feet high.
2. Water contained inside the pad area, will be absorbed with coal and handled through the coking process.

Post-It™ brand fax transmittal memo 7571		# of pages
To	From <i>M. Kunko</i>	
Co.	Co.	
Dept.	Phone #	
Fax #	Fax # <i>3/21/94</i>	

TCC-RD-001307



8/18/99

Given to Bob  
Bloom 8/18/99

**K-Listed Recycling  
at  
Tonawanda Coke Corporation**

Consistent with practices throughout the coke industry, Tonawanda Coke Corporation utilizes the provisions of 40 CFR 261.4 (See Attachment 1) to lawfully recycle coke plant by-products (mostly coal tar based material) by placing such material back into the raw material (coal mix) feed to the coke ovens. The regulation allows us to keep the designated K waste out of the waste stream by virtue of the handling and destination of those materials. Further, the material is not considered generated if the recycling is done.

Tonawanda Coke Corporation currently recycles only on-site generated exempt K wastes. The regulation does however allow us to import similar material for recycling. This has been successfully done in the past. Naturally all of the applicable rules must be adhered to if the exemption is used.

Tonawanda Coke Corporation does not recycle back to the tar products or create a mixed fuel for boiler use. The boiler operation can only burn gaseous fuel and there is no capability to blend with tar products.

The recycling operations at Tonawanda Coke Corporation is done by placing the listed K material on a specially constructed concrete pad where it is mixed with coal (See Attachment 2). This is done to promote the free flow of material through the coal preparation building and maintain continuity in the coal blend. The tonnage capability is highly dependent on the facilities production level. Currently, Tonawanda Coke Corporation would be capable of processing and consuming approximately 25 tons per day.

It should be noted that with increased volumes and or the use of lower viscosity tar materials, the inherent vapors can become an increasing problem in the coal preparation building.

TCC-RD-001308

D\_BBB-011



Att 1

Environment Codified Regulations

**40 CFR 261.4 Exclusions.**

[§261.4 amended at 56 FR 41176, Aug. 19, 1991; 57 FR 21534, May 20, 1992; 57 FR 27888, June 22, 1992; 57 FR 29220, July 1, 1992; 57 FR 30657, July 10, 1992]

(a) *Materials which are not solid wastes.* The following materials are not solid wastes for the purpose of this part:

- (1) (i) Domestic sewage; and
  - (ii) Any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly-owned treatment works for treatment. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system.
  - (2) Industrial wastewater discharges that are point source discharges subject to regulation under section 402 of the Clean Water Act, as amended.
- Comment:* This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.
- (3) Irrigation return flows.
  - (4) Source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 *et seq.*
  - (5) Materials subjected to in-situ mining techniques which are not removed from the ground as part of the extraction process.
  - (6) Pulping liquors (*i.e.*, black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively as defined in §261.1(c) of this chapter.
  - (7) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in §261.1(c) of this chapter.
  - (8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:
    - (i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
    - (ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers,



Environment Codified Regulations

industrial furnaces, or incinerators);

(iii) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed; and

(iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal.

(9) (i) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and

(ii) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.

(iii) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in paragraphs (a)(9)(i) and (a)(9)(ii) of this section, so long as they meet all of the following conditions:

(A) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water borne plants in the production process for their original intended purpose;

(B) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;

(C) Any unit used to manage wastewaters and/or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;

(D) Any drip pad used to manage the wastewaters and/or spent wood preserving solutions prior to reuse complies with the standards in part 265, subpart W of this chapter, regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and

(E) Prior to operating pursuant to this exclusion, the plant owner or operator submits to the appropriate Regional Administrator or State Director a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records for a period of no less than 3 years from the date specified in the notice. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the appropriate Regional Administrator or State Director for reinstatement. The Regional Administrator or State Director may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur.



Environment Codified Regulations

[§261.4(a)(9)(iii) added at 63 FR 28637, May 26, 1998]

(10) EPA Hazardous Waste Nos. K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the Toxicity Characteristic (TC) specified in section 261.24 of this part, when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or the tar refining processes, or mixed with coal tar.

[§261.4(a)(10) revised at 57 FR 37395, Aug. 18, 1992]

Att 2

## **OPERATING PROCEDURE FOR RECYCLING CENTER**

**APPLICABILITY:** All TC materials received on concrete pad for recycling.

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8. Coal foreman calls 6-crane operator to supply a demand quantity of prepared material for consumption in the coal processing.
9. 6-crane operator buckets demand quantity to 7-belt hopper for transfer to coal handling mix bins.
10. Material is now blended as raw material for production/recovery of products.
11. From the time of material receipt to the point of consumption, this procedure should be completed in no more than a 1-week time frame. Daily consumption limits will vary depending on production rate, but 40 tons per day is reasonable.

### **STORM WATER CONTROL**

1. The recycle area is designed with no outlet. Containment capability is in excess of a 6-inch rainfall event. The lowest barrier height being the vehicle entrance, where as the material containment walls are 4 feet high.
2. Water contained inside the pad area, will be absorbed with coal and handled through the coking process.

TCC-RD-001312